

COUNCIL ACTION FORM

SUBJECT: QUARRY ESTATES LAND ANNEXATION

BACKGROUND:

The City Council previously received an annexation petition for 105 acres of land adjacent to the City limits along Grant Avenue and 190th Street. Quarry Estates, LLC, represented by Kurt Friedrich, submitted the annexation petition. Since the annexation request would create an island of unincorporated land, three non-consenting owners have been added to the territory as allowed by Code of Iowa, Section 368.7(a). These additional properties are owned by Harold and Bette Frame and by Harold and Bette Frame on contract to Brian and Jamie Frame (referred to collectively as the Frames), and by Hunziker Land Development, LLC (Hunziker). A location map is included as Attachment A. The legal description and owners' names are included as Attachment B.

Land Use Policy: In 2010, the Ames Urban Fringe Plan—a component of the Land Use Policy Plan—was amended to designate the area between H.P. Jenson Subdivision (west of the former Oaks golf course) and the Union Pacific Railroad as Urban Residential. The areas identified as Natural Area were retained. As Urban Residential, the policy of the City is that development will not occur on the land unless and until the land is annexed and full City services are extended to the site. The Urban Fringe Plan Map designations are included in Attachment C.

The Allowable Growth Area map of the Land Use Policy Plan was also amended in January 2011 to designate the area between the H.P. Jenson Subdivision and George Washington Carver Avenue as the North Allowable Growth Area. The allowable Growth Areas of the LUPP are shown in Attachment D.

The consultation with the Franklin Township Trustees and the Story County Board of Supervisors was held on February 6, 2013. No comments or requests for modifications to the requested annexation were made. The Story County Board of Supervisors voted on April 2, 2013 to provide a resolution stating that they will not take a position in support of or in opposition to the proposed annexation.

The Ames Planning and Zoning Commission recommended approval of the annexation at its regular meeting of March 6. Following a public hearing in which no one addressed the Commission, the Commission unanimously recommended that the City Council approve the annexation request.

Since that time, staff has worked on annexation agreements with both Quarry Estates and Hunziker. These annexation agreements describe the special assessment for the paving of Grant Avenue, describe the responsibilities of the City and the developers in establishing a sanitary sewer and water connection district for the repayment of installation of utilities, and assign the costs for the disconnection and buyout of rural

water service. However, the issue of water service to this area is still unresolved, since the area is currently part of Xenia rural Water District's service territory. **Until a firm agreement is reached with Xenia, neither the developers nor the City should sign the proposed agreement.**

Staff recently received an update from the Xenia General Manager. He committed to send staff two options for providing water service to the northern growth area later this month. City and Xenia staff will then discuss those options, followed immediately by a consultation between Xenia, City staff and the northern growth developers. Hopefully those efforts will result in a plan to provide water service to these areas that is acceptable to all parties involved (including Xenia's creditors). That would then clear the way for the developers and the City to sign the annexation agreement, which in turn would allow the Council to approve the annexation.

At the most recent Council discussion of this issue, owners of the residential properties along Grant Avenue had requested special consideration. Based on direction then given by the City Council, City staff presented a number of potential agreement concepts to the homeowners for their consideration. That direction was to draft items for a pre-annexation agreement that would each home owner along Grant Avenue to obtain a single sanitary sewer and water connection for their existing homestead at a nominal rate. If they sought future development on their properties, the owners would then need to pay the full cost as determined by the connection district fees, less the amount paid previously.

The Grant Avenue neighbors have apparently that offer, believing that future connection costs should also be waived. The result is that the two properties owned by the Frames are not parties to the Quarry Estates annexation, and are being included as non-consenting. Since Hunziker has not submitted an annexation petition or signed an agreement, they are also considered non-consenting.

ALTERNATIVES:

1. The City Council can conduct the public hearing and delay a vote on the resolution to annex the Quarry Estates, Frames, and Hunziker properties until such time as an agreement has been reached with Xenia and the owners have signed annexation agreements.

There is no state requirement that the City Council act on the annexation at the same meeting as the public hearing. The annexation is not jeopardized by delaying a vote. However, if the delay is significant, the City Council may wish to conduct another public hearing prior to a future vote.

2. The City Council can conduct the public hearing and approve the resolution to annex the Quarry Estates, Frames, and Hunziker properties, notwithstanding that the water territory issue is not yet resolved and annexation agreements have not been signed.

By not having the annexation agreement in place, the City Council will have lost an opportunity to ensure that the costs associated with the annexation and development of this area are properly assigned to the parties.

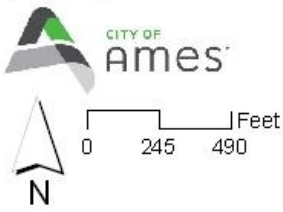
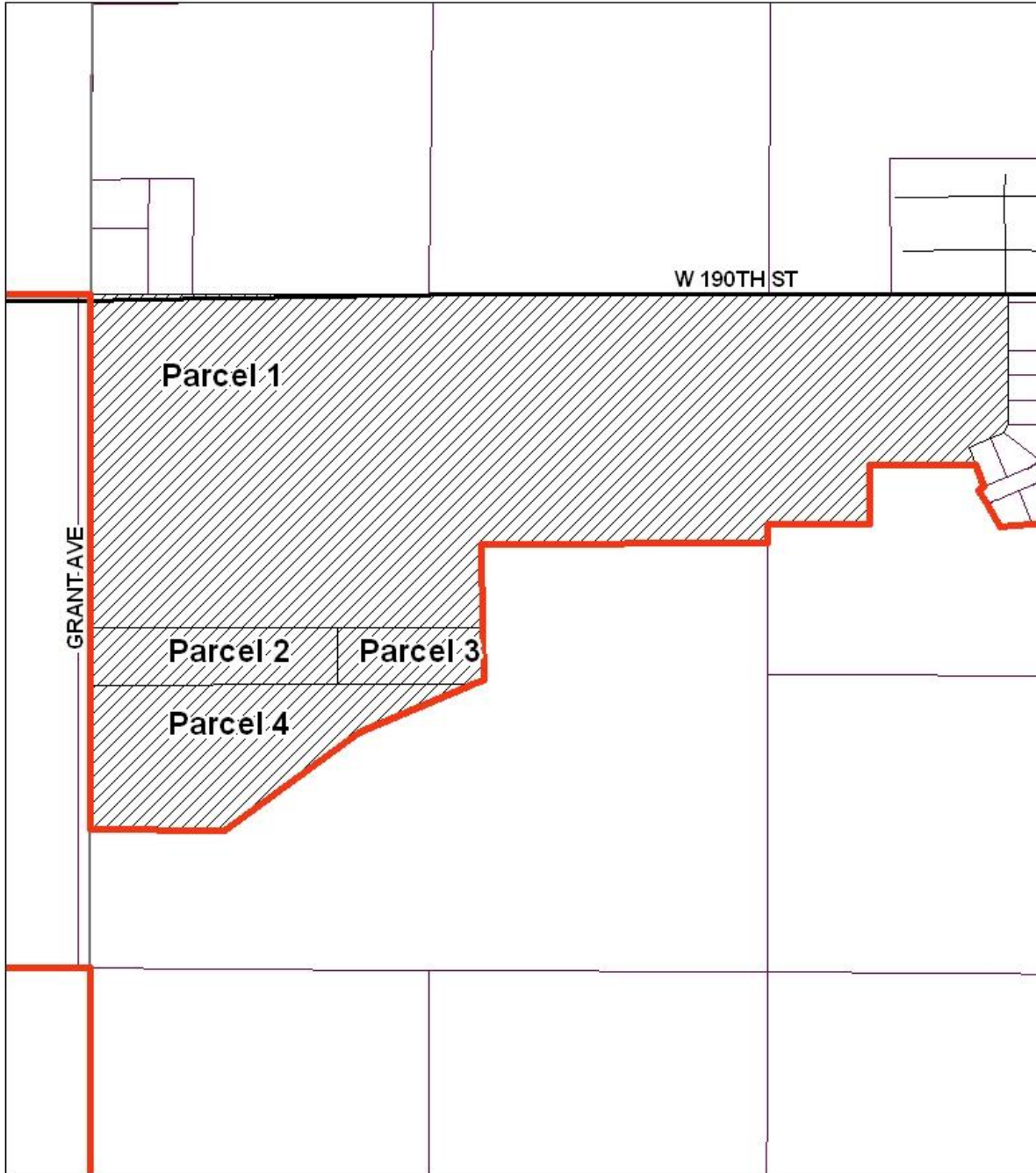
3. The City Council can deny the proposed annexation.

MANAGER'S RECOMMENDED ACTION:



This annexation is consistent with the Land Use Policy Plan and the Ames Urban Fringe Plan. However, uncertainty over the water territory issue leaves important questions unanswered regarding the provision of water service. For that reason, neither the owners nor the City should sign the annexation agreements at this time. Were the Council to approve the annexation without those agreements, the City would lose the ability to ensure that the annexation meets the conditions previously laid out by the City Council.

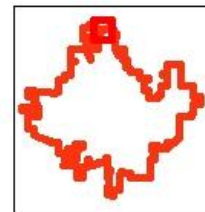
Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1. Council would thereby conduct the public hearing, but would delay a vote on a resolution to annex the Quarry Estates, Frames, and Hunziker properties until such time as a water agreement has been reached with Xenia and the owners of Quarry Estates and the Hunziker property sign the annexation agreements.

ATTACHMENT A: LOCATION MAP



Proposed Annexation

- Legend**
-  Ames City Boundary
 -  Proposed Annexation



ATTACHMENT B: LEGAL DESCRIPTIONS

Consenting:

Parcel 1

Owner: Quarry Estates, LLC c/o Kurt Friedrich, 100 6th Street, Ames, IA 50010

Legal: Parcel 'L' in the North Half (N ½) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa on January 17, 2012, and recorded as Instrument # 2012-00000476. Contains 85.45 gross acres.

Non-Consenting:

Parcel 2

Owner: Harold Frame and Bette A. Frame, 5442 Grant Avenue, Ames, IA 50010

Legal: Parcel 'B' in the Northwest Quarter (NW ¼) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on February 6th, 1998, and recorded as Instrument # 98-01464 in C&FN Book 15 at Page 110. Contains 4.84 gross acres.

Parcel 3

Owner: Harold Frame and Bette A. Frame, 5442 Grant Avenue, Ames, IA 50010 (deed holder);

Brian A. Frame and Jamie R. Frame, 5440 Grant Avenue, Ames, IA 50010 (contract buyer)

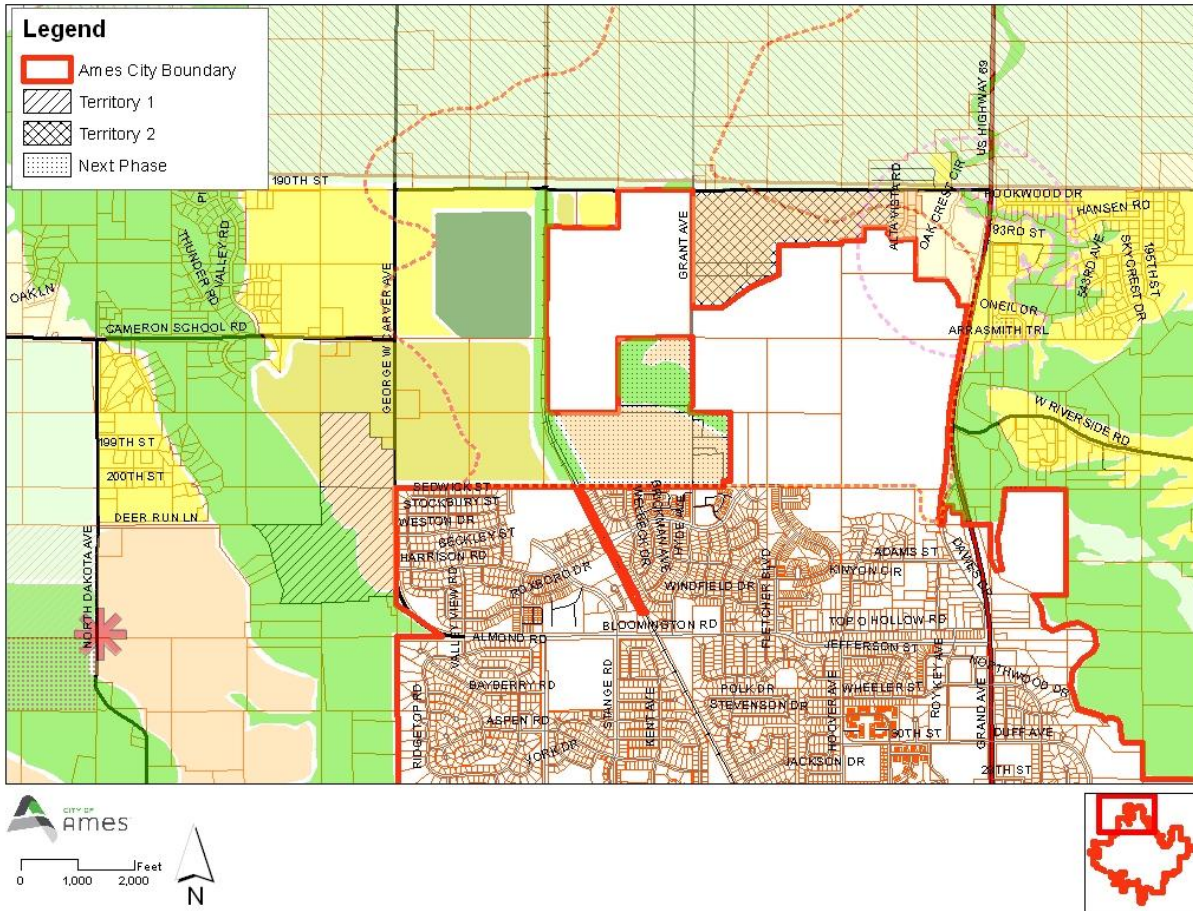
Legal: Parcel 'C' in the Northwest Quarter (NW ¼) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on February 6th, 1998, and recorded as Instrument # 98-01464 in C&FN Book 15 at Page 110. Contains 2.83 gross acres.

Parcel 4

Owner: Hunziker Land Development Co. LLC, 105 S. 16th Street, Ames, IA 50010

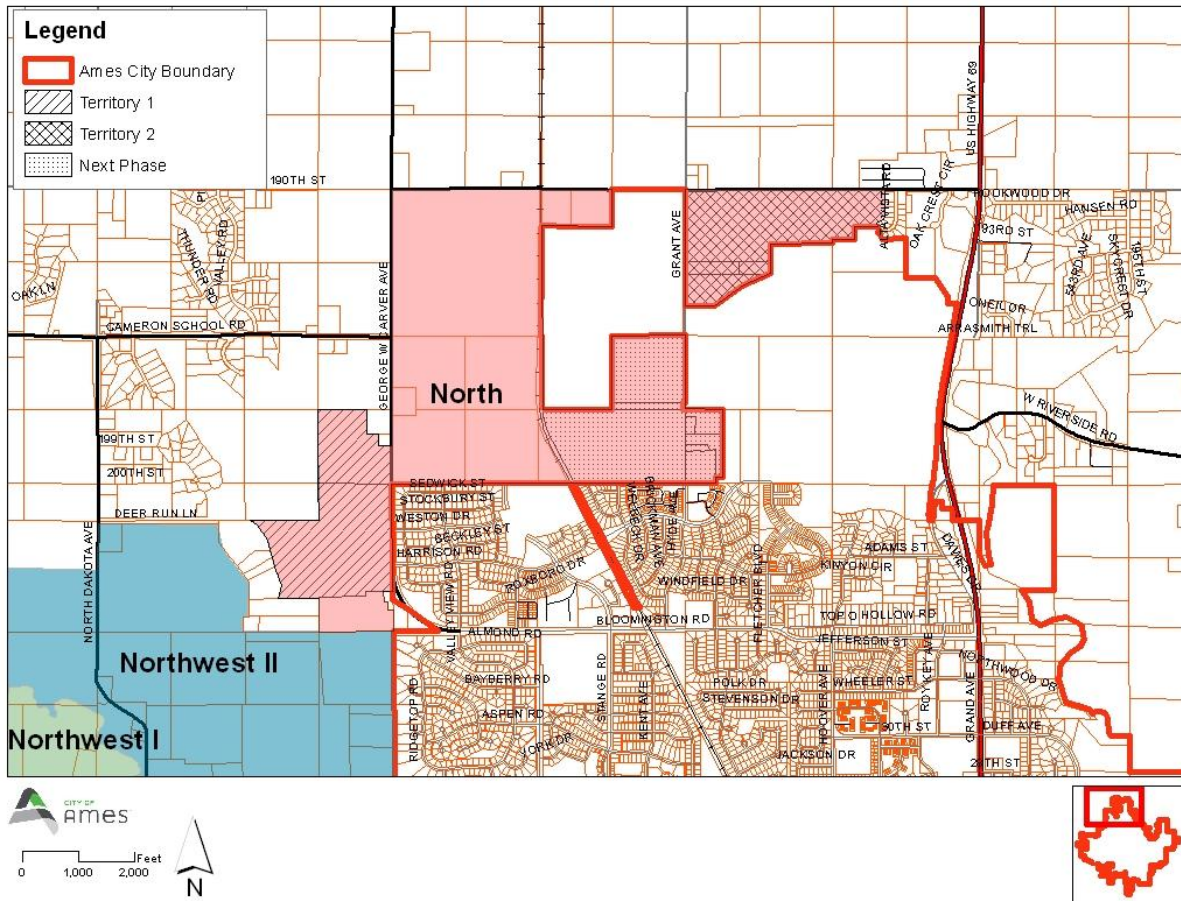
Legal: Parcel 'K' in the Northwest Quarter (NW ¼) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa as shown on the Plat of Survey filed in the office of the Recorder of Story County on June 8, 2011, on Slide 407, Page 5, and as Instrument # 11-05323. Contains 12.00 gross acres.

ATTACHMENT C: URBAN RESIDENTIAL AREAS OF URBAN FRINGE PLAN



Territory 1 is the Athen parcels. Territory 2 is the subject Quarry Estates and other included parcels. Next Phase is a possible third annexation immediately north of Bloomington Heights.

ATTACHMENT D: GROWTH AREAS OF LUPP



Territory 1 is the Athen parcels. Territory 2 is the subject Quarry Estates and other included parcels. Next Phase is a possible third annexation immediately north of Bloomington Heights.